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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,108	05/05/2004	Martin Weel	1116-064	9463
71739 7590 12/24/2008 CONCERT TECHNOLOGY AND WITHROW & TERRANOVA 100 REGENCY FOREST DRIVE , SUITE 160 CARY, NC 27518				
EXAMINER				
DAFTUAR, SAKET K				
ART UNIT		PAPER NUMBER		
2451				
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12/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/840,108	Applicant(s) WEEL, MARTIN
Examiner SAKET K. DAFTUAR	Art Unit 2451

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 11-18,31,32,34-44 and 50-55.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/John Follansbee/
Supervisory Patent Examiner, Art Unit 2451

/S. K. D./
Examiner, Art Unit 2451

Continuation of 11, does NOT place the application in condition for allowance because: applicant arguments are not persuasive. Below is the extract of Final office action Mailed on October 3rd, 2008 where examiner has rejected the case under obviousness type rejection:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action: (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-18, 31-32, 34-44 and 50-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mimura et al. US Patent Number 7,218,611 B2 (hereinafter Mimura) and further in view of Johnson et al. US Patent Number 6,456,234 B1 (hereinafter Johnson).

As per claim 11, Mimura discloses broadcasting a signal from a first device [broadcast apparatus 1] operative to be received by a second device [reception apparatus 2], the signal including a request for a identifiers (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2); receiving at least the identifier on the first device (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2); selecting the identifier (Abstract, figure 18, column 20, line 16 - column 21, line 42 see figures 1-2); transmitting from the first device a password associated with the identifier (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 4a-4b and 5a-5b); and receiving at the first device at least one device identifier identifying a device associated with the identifier (Abstract, figure 18, column 20, line 16 - column 21, line 42; see figures 4a-4b and 5a-5b).

However, Mimura is silent about the concept of a location identifier (ID) or a list of location identifier from a device and that further require entering a password or authentication information associated with the identifier. Johnson teaches the concept of a location identifier (ID) or a list of location identifier from a device and that further require entering a password or authentication information associated with the identifier (see figures 1-10, Johnson clearly discloses server locating and recording location and movement of particular device with activation and authorization ID [figure 7A, blocks 704, 718, 720] associated with it).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Mimura and Johnson to obtain predictable result to provide a broadcast system in which the packet sent from the secured broadcast apparatus arrives at the secured reception apparatus remotely located at the situational location whereas the situational location of the secure remote data processing system may be its location, direction, location and direction, proximity to a location, state change, or location and/or direction relative to a previous location.

As per claims 31-32 and 34-39, they do not teach or further define over the limitation as recited in claims 11-18, Mimura discloses therefore, claims 31-32 and 34-39 are rejected under same scope as discussed in claims 11-18, supra.

As per claim 41, Mimura discloses wirelessly broadcasting, on a first device, a ID (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); wirelessly receiving, on a second device, the ID (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); entering, on the second device, a password associated with the ID (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); effecting the playing of a media item on the first device by the second device ((Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b).

However, Mimura is silent about the concept of a location identifier (ID) or a list of location identifier from a device and that further require entering a password or authentication information associated with the identifier. Johnson teaches the concept of a location identifier (ID) or a list of location identifier from a device and that further require entering a password or authentication information associated with the identifier (see figures 1-10, Johnson clearly discloses server locating and recording location and movement of particular device with activation and authorization ID [figure 7A, blocks 704, 718, 720] associated with it).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Mimura and Johnson to obtain predictable result to provide a broadcast system in which the packet sent from the secured broadcast apparatus arrives at the secured reception apparatus remotely located at the situational location whereas the situational location of the secure remote data processing system may be its location, direction, location and direction, proximity to a location, state change, or location and/or direction relative to a previous location.

As per claim 50, Mimura discloses moving a first device operative to receive a wireless broadcast of at least one ID into a range of a network having connected thereto at least one second device operative to wirelessly broadcast at least one ID (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); receiving, at the first device, a ID from the at least one second device (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); displaying, on the first device, the

ID received from the at least one second device (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41, see figures 12a-12b; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); selecting, on the first device, the ID (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); entering, on the first device, a password associated with the selected ID (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41; column 1, line 13- column 2, line 26; see figures 4a-4b and 5a-5b); and selecting, on the first device, a song to be played on the at least one second device (Abstract, figure 18, column 20, line 16 - column 21, line 42, see figures 1-2; column 14, lines 14-41).

However, Mimura is silent about the concept of a location identifier (ID) or a list of location identifier from a device and that further require entering a password or authentication information associated with the identifier.

Johnson teaches the concept of a location identifier (ID) or a list of location identifier from a device and that further require entering a password or authentication information associated with the identifier (see figures 1-10, Johnson clearly discloses server locating and recording location and movement of particular device with activation and authorization ID [figure 7A, blocks 704, 718, 720] associated with it).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Mimura and Johnson to obtain predictable result to provide a broadcast system in which the packet sent from the secured broadcast apparatus arrives at the secured reception apparatus remotely located at the situational location whereas the situational location of the secure remote data processing system may be its location, direction, location and direction, proximity to a location, state change, or location and/or direction relative to a previous location.

/S. K. D./

Examiner, Art Unit 2451